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AMENDED IN ASSEMBLY JULY 1, 2008
AMENDED IN ASSEMBLY JUNE 19, 2008
AMENDED IN SENATE MAY 6, 2008
AMENDED IN SENATE APRIL 14, 2008
AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1250

Introduced by Senator Yee
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Price)

February 15, 2008

An act to amend Sections 224.72, 1712.1, and 1766 of, and to add Section 223.1 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, Yee. Juveniles: communications.

(1) Existing law requires the public officer responsible for the well-being of any minor in the custody of the state or the county to notify the parents or guardians of that minor, if they can reasonably be located, within 24 hours of any serious injury or serious offense committed against the minor, upon reasonable substantiation that a serious injury or offense has occurred. This requirement does not apply if the minor requests that his or her parents or guardians not be informed and the chief probation officer or the Chief Deputy Secretary for Juvenile Justice determines that would be in the best interest of the minor.

This bill would enact the Family Communication and Youth Rehabilitation Act of 2008. The bill would expand the above provision to require the public officer responsible for the well-being of any person in the custody of the Division of Juvenile Facilities to successfully contact at least one individual who is a parent, guardian, or emergency contact of that person, if the individual can reasonably be located, within 24 hours of any suicide attempt, as defined, by the person, or of any serious injury or serious offense committed against the person. The bill would authorize the person, in consultation with division staff, as appropriate, and with concurrence of the public officer responsible for the well-being of that person, to designate other persons who are emergency contacts, one of whom may be notified in case of an emergency in lieu of a parent or a guardian. This requirement would not apply if a minor in custody requests that his or her parents, guardians, or other persons not be notified and the director of the division facility determines that would be in the best interest of the minor, or if an adult in custody does not consent to the notification. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions. The bill would require the division to provide the person with forms and any information necessary to provide informed consent as to who shall be notified in case of an emergency, and would require staff to enter specified information in this regard into the ward's record. The bill would also expand the definition of a "serious injury" for purposes of these provisions.

(2) Existing law requires each facility of the Division of Juvenile Facilities to post a listing of the statutory rights of youth confined in division facilities in a conspicuous location. The Office of the Ombudspersons of the Division of Juvenile Facilities is required to design posters and provide the posters to each division facility.

This bill would require the division, on or before July 1, 2010, to ensure the listing of rights and posters described above are translated into Spanish and other languages as needed for the members of any linguistic group that represents at least 1% of the division's ward population. The bill also would require a copy of the rights of the youth to be included in orientation packets provided to parents or guardians of wards, and copies of the rights of youth in English, Spanish, and other languages to be made available in the visiting areas of division facilities and, upon request, to parents or guardians.

(3) Existing law provides that a ward confined in a division facility shall be allowed a minimum of 4 telephone calls to his or her family per month, but authorizes the restriction of telephone usage when calls conflict with institutional operations, supervision, or security, to the extent reasonably necessary for the continued operation and security of the facility.

This bill would provide that those 4 telephone calls shall be provided at no cost to the ward or his or her family, but would be limited to 15 minutes each. The bill would authorize a ward, when speaking by telephone or corresponding with a family member, clergy, or counsel, to use his or her native language or the native language of the person to whom he or she is speaking or writing. The bill also would require, except as specified, the division to encourage correspondence with family or clergy by providing blank paper, envelopes, pencils, and postage, as specified.

(4) Existing law requires the division, not less than 60 days prior to the scheduled parole consideration hearing of a ward eligible for release on parole on or after September 1, 2007, as specified, to provide to the probation department and the court of the committing county, and the ward's counsel, if known, the ward's most recent written case review, along with notice of the parole consideration hearing date.

This bill would require the division, not less than 60 days prior to the ward's scheduled parole consideration hearing, to also notify the ward's parent or guardian, if he or she can reasonably be located, of the date and location of the parole consideration hearing, except as specified. The bill would require the division to also inform other persons identified by the ward, if they can reasonably be located, and who are considered by the division as likely to contribute to a ward's preparation for the parole consideration hearing or the ward's postrelease success. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions, and to provide forms and any information necessary to implement those rights. The bill would require the person's consent to notification of parents, guardians, or other persons, to be documented in his or her record.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Family Communication and Youth Rehabilitation Act of 2008.

3 SEC. 2. Section 223.1 is added to the Welfare and Institutions
4 Code, to read:

5 223.1. (a) (1) At least one individual who is a parent, guardian,
6 or designated emergency contact of a person in the custody of the
7 Division of Juvenile Facilities, if the individual can reasonably be
8 located, shall be successfully ~~contacted~~ *notified* within 24 hours
9 by the public officer responsible for the well-being of that person,
10 of any suicide attempt by the person, or any serious injury or
11 serious offense committed against the person. In consultation with
12 division staff, as appropriate, and with concurrence of the public
13 officer responsible for the well-being of that person, the person
14 may designate other persons who should be notified in case of an
15 emergency in addition to, or in lieu of, parents or guardians.

16 (2) This section shall not apply if either of the following
17 conditions is met:

18 (A) A minor requests that his or her parents, guardians, or other
19 persons not be notified, and the director of the division facility, as
20 appropriate, determines it would be in the best interest of the minor
21 not to notify the parents, guardians, or other persons.

22 (B) A person 18 years of age or older does not consent to the
23 notification.

24 (b) Upon intake of a person into a division facility, and again
25 upon attaining 18 years of age while in the custody of the division,
26 an appropriate staff person shall explain, using language clearly
27 understandable to the person, all of the provisions of this section,
28 including that the person has the right to (1) request that the
29 information described in paragraph (1) of subdivision (a) not be
30 provided to a parent or guardian, and (2) request that another person
31 or persons in addition to, or in lieu of, a parent or guardian be
32 notified in case of an emergency. The division shall provide the
33 person with forms and any information necessary to provide
34 informed consent as to who shall be notified in case of an
35 emergency. Any designation made pursuant to paragraph (1) of
36 subdivision (a), the consent to notify parents, guardians, or other
37 persons, and the withholding of that consent, may be amended or
38 revoked by the person, and shall be transferable among facilities.

(c) Staff of the division shall enter the following information into the ward's record, as appropriate, upon its occurrence:

(1) A minor's request that his or her parents, guardians, or other persons not be notified of an emergency pursuant to this section, and the determination of the relevant public officer on that request.

(2) The designation of persons who are emergency contacts, in lieu of parents or guardians, ~~one of whom~~ *who* may be notified of an emergency pursuant to this section.

(3) The revocation or amendment of a designation or consent made pursuant to this section.

(4) A person's consent, or withholding thereof, to notify parents, guardians, or other persons pursuant to this section.

(d) For purposes of this section:

(1) "Serious offense" means any offense that is chargeable as a felony and that involves violence against another person.

(2) "Serious injury" means any illness or injury that requires hospitalization or admission to an out-patient housing unit, requires an evaluation for involuntary treatment for a mental health disorder or grave disability under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), is potentially life threatening, or that potentially will permanently impair the use of a major body organ, appendage, or limb.

(3) "Suicide attempt" means a nonfatal, self-inflicted, destructive act committed with explicit or inferred intent to die.

SEC. 3. Section 224.72 of the Welfare and Institutions Code is amended to read:

224.72. (a) Every facility of the Division of Juvenile Facilities shall provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights of the youth, as specified in Section 224.71, and that addresses the youth's questions and concerns.

(b) Each facility of the Division of Juvenile Facilities shall post a listing of the rights provided by Section 224.71 in a conspicuous location. The Office of the Ombudspersons of the Division of Juvenile Facilities shall design posters and provide the posters to each Division of Juvenile Facilities facility subject to this subdivision. These posters shall include the toll-free telephone

1 number of the Office of the Ombudspersons of the Division of
2 Juvenile Facilities.

3 (c) Consistent with Chapter 17.5 (commencing with Section
4 7290) of Division 7 of Title 1 of the Government Code, on or
5 before July 1, 2010, the division shall ensure the listing of rights
6 and posters described in this section are translated into Spanish
7 and other languages as needed for the members of any linguistic
8 group that represents at least 1 percent of the division's ward
9 population.

10 (d) A copy of the rights of the youth shall be included in
11 orientation packets provided to parents or guardians of wards.
12 Copies of the rights of youth in English, Spanish, and other
13 languages shall also be made available in the visiting areas of
14 division facilities and, upon request, to parents or guardians.

15 SEC. 4. Section 1712.1 of the Welfare and Institutions Code
16 is amended to read:

17 1712.1. (a) A ward confined in a facility of the Department
18 of Corrections and Rehabilitation, Division of Juvenile Facilities,
19 shall be encouraged to communicate with family members, clergy,
20 and others, and to participate in programs that will facilitate his
21 or her education, rehabilitation, and accountability to victims, and
22 that may help the ward become a law-abiding and productive
23 member of society. If the division or a facility requires a ward to
24 provide a list of allowed visitors, calls, or correspondents, that list
25 shall be transferable from facility to facility, so that the transfer
26 of the ward does not unduly interrupt family and community
27 communication.

28 (b) A ward shall be allowed a minimum of four telephone calls
29 ~~to his or her family per month at no cost to the ward or family.~~
30 ~~Each of the four free calls shall not exceed 15 minutes in duration.~~
31 *to his or her family per month.* A restriction or reduction of the
32 minimum amount of telephone calls allowed to a ward shall not
33 be imposed as a disciplinary measure. If calls conflict with
34 institutional operations, supervision, or security, telephone usage
35 may be *temporarily* restricted to the extent reasonably necessary
36 for the continued operation and security of the facility. When
37 speaking by telephone with a family member, clergy, or counsel,
38 a ward may use his or her native language or the native language
39 of the person to whom he or she is speaking.

1 (c) (1) If a ward's visitation rights are suspended, division or
2 facility staff shall be prepared to inform one or more persons on
3 the list of those persons allowed to visit the ward, if any of those
4 persons should call to ask.

5 (2) The division or facility shall maintain a toll-free telephone
6 number that families and others may call to confirm visiting times,
7 and to provide timely updates on interruptions and rescheduling
8 of visiting days, times, and conditions.

9 (3) (A) The division shall encourage correspondence with
10 family or clergy by providing blank paper, envelopes, pencils or
11 other writing instruments, and postage. Materials shall be provided
12 in a manner that protects institutional and public safety, and
13 correspondence shall be subject to review by staff only to the extent
14 allowable by law.

15 (B) When corresponding with a family member, clergy, or
16 counsel in writing, the ward may use his or her native language or
17 the native language of the person to whom he or she is writing.

18 (C) Blank paper, envelopes, and pencils shall not be deemed
19 contraband nor seized except in cases where *the* staff determines
20 that these items would likely be used to cause bodily harm, injury,
21 or death to the ward or other persons, or, based on specific history
22 of property damage by the individual ward, would likely be used
23 to cause destruction of state property. If *the* staff asserts that it is
24 necessary to seize materials normally used for correspondence,
25 the reasons for the seizure shall be entered in writing in the ward's
26 file or records.

27 SEC. 5. Section 1766 of the Welfare and Institutions Code is
28 amended to read:

29 1766. (a) Subject to Sections 733 and 1767.35, and subdivision
30 (b) of this section, if a person has been committed to the
31 Department of Corrections and Rehabilitation, Division of Juvenile
32 Facilities, the Board of Parole Hearings, according to standardized
33 review and appeal procedures established by the board in policy
34 and regulation and subject to the powers and duties enumerated
35 in subdivision (a) of Section 1719, may do any of the following:

36 (1) Permit the ward his or her liberty under supervision and
37 upon conditions it believes are best designed for the protection of
38 the public.

39 (2) Order his or her confinement under conditions it believes
40 best designed for the protection of the public pursuant to the

1 purposes set forth in Section 1700, except that a person committed
2 to the division pursuant to Sections 731 or 1731.5 may not be held
3 in physical confinement for a total period of time in excess of the
4 maximum periods of time set forth in Section 731. Nothing in this
5 subdivision limits the power of the board to retain the minor or
6 the young adult on parole status for the period permitted by
7 Sections 1769, 1770, and 1771.

8 (3) Order reconfinement or renewed release under supervision
9 as often as conditions indicate to be desirable.

10 (4) Revoke or modify any parole or disciplinary appeal order.

11 (5) Modify an order of discharge if conditions indicate that such
12 modification is desirable and when that modification is to the
13 benefit of the person committed to the division.

14 (6) Discharge him or her from its control when it is satisfied
15 that discharge is consistent with the protection of the public.

16 (b) The following provisions shall apply to any ward eligible
17 for release on parole on or after September 1, 2007, who was
18 committed to the custody of the Division of Juvenile Facilities for
19 an offense other than one described in subdivision (b) of Section
20 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal
21 Code:

22 (1) The county of commitment shall supervise the reentry of
23 any ward released on parole on or after September 1, 2007, who
24 was committed to the custody of the division for committing an
25 offense other than those described in subdivision (b) of Section
26 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal
27 Code.

28 (2) Not less than 60 days prior to the scheduled parole
29 consideration hearing of a ward described in this subdivision, the
30 division shall provide to the probation department and the court
31 of the committing county, and the ward's counsel, if known, the
32 most recent written review prepared pursuant to Section 1720,
33 along with notice of the parole consideration hearing date.

34 (3) (A) Not less than 60 days prior to the scheduled parole
35 consideration hearing of a ward described in this subdivision, the
36 division shall notify the ward's parent or guardian, if he or she can
37 reasonably be located, of the date and location of the parole
38 consideration hearing. The division shall also inform other persons
39 identified by the ward, if they can reasonably be located, and who
40 are considered by the division as likely to contribute to a ward's

1 preparation for the parole consideration hearing or the ward's
2 postrelease success.

3 (B) This paragraph shall not apply if either of the following
4 conditions is met:

5 (i) A minor requests that his or her parents, guardians, or other
6 persons not be notified, and the director of the division facility
7 determines it would be in the best interest of the minor not to notify
8 the parents, guardians, or other persons.

9 (ii) A person 18 years of age or older does not consent to the
10 notification.

11 (C) Upon intake of a ward into a division facility, and again
12 upon attaining 18 years of age while in the custody of the division,
13 an appropriate staff person shall explain, using language clearly
14 understandable to the ward, that the ward has the right to designate
15 who shall be informed prior to his or her parole consideration
16 hearing. The ward shall be provided with forms and any
17 information necessary to provide informed consent for notification
18 of parents, guardians, or other persons described in subparagraph
19 (A) of the date and location of a scheduled parole consideration
20 hearing. The ward also shall be advised that he or she has the right
21 to request that this information not be provided. The consent, or
22 withholding thereof, to notify parents, guardians, or other persons
23 described in subparagraph (A) may be amended or revoked by the
24 ward, shall be documented in the ward's record, and shall be
25 transferable among facilities.

26 (D) Nothing in this paragraph shall be construed to limit the
27 right of a ward to an attorney under any other law.

28 (4) Not less than 30 days prior to the scheduled parole
29 consideration hearing of a ward described in this subdivision, the
30 probation department of the committing county may provide the
31 division with its written plan for the reentry supervision of the
32 ward. At the parole consideration hearing, the Board of Parole
33 Hearings shall, in determining whether the ward is to be released,
34 consider a reentry supervision plan submitted by the county.

35 (5) Any ward described in this subdivision who is granted parole
36 shall be placed on parole jurisdiction for up to 15 court days
37 following his or her release. The board shall notify the probation
38 department and the court of the committing county within 48 hours
39 of a decision to release a ward.

(6) Within 15 court days of the release by the division of a ward described in this subdivision, the committing court shall convene a reentry disposition hearing for the ward. The purpose of the hearing shall be for the court to identify those conditions of probation that are appropriate under all the circumstances of the case. The court shall, to the extent it deems appropriate, incorporate a reentry plan submitted by the county probation department and reviewed by the board into its disposition order. At the hearing the ward shall be fully informed of the terms and conditions of any order entered by the court, including the consequences for any violation thereof. The procedure of the reentry disposition hearing shall otherwise be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

(7) The division shall have no further jurisdiction over a ward described in this subdivision who is released on parole by the board upon the ward's court appearance pursuant to paragraph (5).

(c) Within 60 days of intake, the division shall provide the court and the probation department with a treatment plan for the ward.

(d) A ward shall be entitled to an appearance hearing before a panel of board commissioners for any action that would result in the extension of a parole consideration date pursuant to subdivision (d) of Section 5076.1 of the Penal Code.

(e) The department shall promulgate policies and regulations to implement this section.

(f) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the division and the board, categorized by guideline category.

(2) The number of parole consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a parole consideration date, including the category assigned to the ward, the amount of time added to or subtracted from the parole consideration date, and the specific reason for the change.

(4) The percentage of wards who have had a parole consideration date changed to a later date, the percentage of wards who have

1 had a parole consideration date changed to an earlier date, and the
2 average annual time added or subtracted per case.

3 (5) The number and percentage of wards who, while confined
4 or on parole, are charged with a new misdemeanor or felony
5 criminal offense.

6 (6) Any additional data or information identified by the
7 department as relevant.

8 (g) As used in subdivision (f), the term “ward case review”
9 means any review of a ward that changes, maintains, or appreciably
10 affects the programs, treatment, or placement of a ward.

O